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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/755,519	01/12/2004	Anatol Wizenberg	1003-04	1394

35811 7590 11/20/2006

IP GROUP OF DLA PIPER US LLP  
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EXAMINER

NGUYEN, KIEN T

ART UNIT PAPER NUMBER

3711

DATE MAILED: 11/20/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

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<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/755,519	WIZENBERG ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Kien T. Nguyen	3711	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 16 August 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1,2,4,5,7-17 and 19-21 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 14-17 is/are allowed.
- 6) ☒ Claim(s) 1,2,4,5,7-13,19 and 20 is/are rejected.
- 7) ☒ Claim(s) 21 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                     | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1, 2, 5, 7, 9-12, and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Van Voorhis in view of Pembridge U.S. Patent 3,199,867.

Van Voorhis disclosed a toy comprising a shaft (1); a roller (2) attached to a first end of the shaft; the roller (2) is capable of being interchangeable via (3); a housing (5) attached to a second opposing end of the shaft; a front end (horse's mouth) coupled to the housing; a sound pad (8) coupled to the housing; the roller comprising at least one wheel (2) and an axle (3); at least one decorative member (strap) coupled to the housing. It is noted that Van Voorhis failed to specifically teach decorative member being coupled to the housing as being interchangeable and to resemble a jet, an automobile, and a wing as set forth in these claims. However, Pembridge disclosed a riding game device having at least one interchangeable decorative member (3), and other members resembling a plane (5) or a boat (4) as shown in Fig. 4. Accordingly, it would have been obvious to one of ordinary skill in the art to modify the housing of Van Voorhis with a plurality of interchangeable decorative members to provide different looks for accommodating different users.

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Claims 4, 8, 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Van Voorhis modified by Pembridge as applied to claim 1 above, and further in view of Thornell.

It is noted that the combination of Van Voorhis and Pembridge failed to teach the use of a light pad coupled to the housing as set forth in claim 4; and a handle coupled to the housing as set forth in claims 8 and 13. However, Thornell disclosed a rocking toy comprising a light pad (7) coupled to the housing (6) of the toy, and a handle (curved handle as shown in Fig. 1). Therefore, it would have been obvious to one of ordinary skill in the art to modify the housing (5) of Van Voorhis as modified by Pembridge with the light pad (7) and the handle as taught by Thornell for the purpose of attracting attention of the user and controlling the head of the horse with ease.

#### ***Allowable Subject Matter***

Claims 14-17 are allowed.

Claim 21 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

#### ***Response to Arguments***

In response to applicant's the prior art cited in the rejections of the office action dated 07/14/06 failed to teach the "interchangeable" roller, such argument is not persuasive because the roller (2) of Van Voorhis can be interchangeable via fastener (3). The term "interchangeable" does not contain any specific structural feature that

allows the roller to be interchangeable. It is submitted that the roller (2) of Van Voorhis can be reasonably characterized as "interchangeable" by removing the wheels from the fastener (3) and change their position.


**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kien T. Nguyen whose telephone number is (571) 272-4428. The examiner can normally be reached on 7:30 AM-5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eugene Kim can be reached on (571) 272-4463. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

  
Kien T. Nguyen  
Primary Examiner  
Art Unit 3711

Ktn